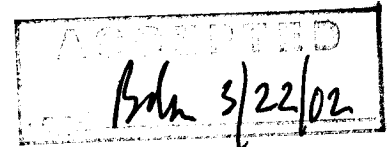




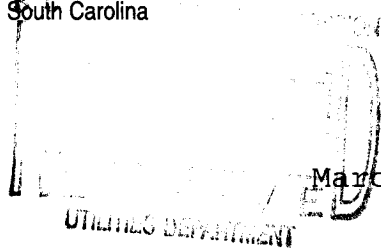
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129680



March 22, 2002

The Honorable Gary E. Walsh  
Executive Director  
Public Service Commission of SC  
Post Office Drawer 11649  
Columbia, South Carolina 29211

Hand delivered

SC PUBLIC SERVICE  
COMMISSION

2002 MAR 22 PM 2:23

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Re: Application of BellSouth Telecommunications, Inc. to  
Provide In-Region InterLATA Services Pursuant to  
Section 271 of the Telecommunications Act of 1996  
Docket No. 2001-209-C

Dear Mr. Walsh:

Enclosed please find for filing an original and 15 copies  
of BellSouth's Response to Petition for Rehearing or  
Reconsideration of SCCTA. By copy of this letter, I am serving  
all parties of record with a copy of this pleading as indicated  
on the attached Certificate of Service.

Sincerely,

Caroline N. Watson

CNW/nml  
Enclosure  
cc: All Parties of Record

BEFORE THE  
PUBLIC SERVICE COMMISSION OF SOUTH CAROLINA

In Re: Application of BellSouth  
Telecommunications, Inc. To Provide  
In-Region InterLATA Services Pursuant  
Section 271 of the Telecommunications  
Act of 1996 )  
)  
)  
)  
)

DOCKET NO.  
2001-209-C

SC PUBLIC SERVICE  
COMMISSION

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**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO PETITION  
FOR REHEARING OR RECONSIDERATION OF SCCTA**

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its Response to the Petition for Rehearing or Reconsideration of SCCTA and states as follows:

It appears, although it is far from clear, that SCCTA is complaining about three things: (1) the Commission's holding that the penalty plan is voluntary; (2) the structure of the penalty plan; and (3) an alleged omission by the Commission about the incorporation of the IPP into BellSouth interconnection agreements. Each of these concerns is easily addressed.

First, in the Section 271 case, BellSouth took the position that it is not appropriate for a state commission to order BellSouth to implement a self-executing remedy plan without BellSouth's consent because enforcement mechanisms are not required by the Act or by any FCC rule. To the extent that any breach of contract issue should arise, there are perfectly adequate state laws and regulatory authority procedures available to address such situations. BellSouth's SQMs are fully enforceable through regulatory authority complaints in the event of BellSouth's failure to meet such measurements. In addition, in the ITC DeltaCom arbitration case, Docket No. 1999-690, dated October 4, 1999, the

Commission ruled: "This Commission has previously found in this order as well as in a previous arbitration order (See Order No. 97-189, Docket No. 96-358-C, March 10, 1997, at 10) that it lacks jurisdiction to impose penalties."

Once BellSouth proposed a penalty plan, however, BellSouth agreed that the Commission could adopt the plan as being consistent with the public interest and enforce the penalty plan as proposed in South Carolina.

The Commission's decision is consistent with each of these things. The Commission recognized the voluntary nature of the penalty plan and BellSouth's right to modify the plan. The Commission did not, however, abdicate all involvement in the plan as SCCTA implies. The Commission specifically stated that the changes proposed by BellSouth would be "subject to Commission approval" and the Commission retained the right to propose changes to the plan.

Moreover, the Commission ordered BellSouth to incorporate the IPP into BellSouth's Statement of Generally Available Terms and Conditions ("SGAT"). As SCCTA should be aware, BellSouth's SGAT contains legally binding terms and conditions pursuant to which BellSouth must provide local service in South Carolina. Thus, when BellSouth's files its SGAT and the penalty plan becomes effective, BellSouth will be obligated to comply with the IPP.

SCCTA also seems to raise a concern about the structure of the penalty plan. As the record made clear, and as the Commission noted, the IPP is designed as an incentive to BellSouth to maintain high performance and prevent backsliding after Section 271 relief. It is not designed to compensate any particular CLEC for specific harms incurred. To attempt to create a penalty plan

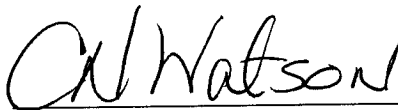
that compensates CLECs for actual harm would defeat the purpose of a streamlined self-effectuating plan in that every BellSouth miss would need to be examined by the parties so that the harm could be determined. Moreover, as discussed above, there is no need to modify the structure of the IPP to make it enforceable. Pursuant to the Commission's Order, the IPP will be part of the SGAT, and thus will constitute a legally binding obligation on BellSouth.

Third, SCCTA complains that the Commission did not opine on the applicability of the IPP to CLECs with interconnection agreements. This concern also is not valid. Any South Carolina CLEC can amend its interconnection agreement to incorporate the IPP attachment of the SGAT without adopting the entire SGAT. Thus, it is available to all CLECs. Moreover, for those CLECs operating in South Carolina who have current interconnection agreements that specify that the parties will use the penalty plan adopted by the state commission in the state in which the CLEC is operating, the IPP would be that plan. Thus, every CLEC who has an interconnection agreement with BellSouth in South Carolina has the opportunity to avail itself of the IPP.

For these reasons, BellSouth respectfully requests that the Petition be denied.

This 22<sup>nd</sup> day of March, 2002.

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in cursive script, appearing to read "C. Watson", is written over a horizontal line.

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COMMISSION

STATE OF SOUTH CAROLINA                    )  
  ) CERTIFICATE OF SERVICE  
COUNTY OF RICHLAND                        )

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused BellSouth's Response to Petition for Rehearing or Reconsideration of SCCTA in Docket No. 2001-209-C, to be served by the method indicated below upon the following this March 22, 2002:

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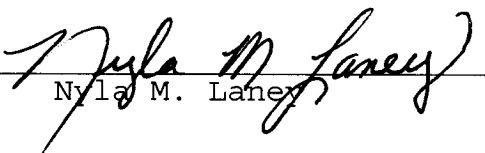
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